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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/738,234 12/15/00 ROBERTS

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EXAMINER

DEXTER, C

ART UNIT	PAPER NUMBER
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3724

DATE MAILED:

08/15/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.
09/738,234

Applicant(s)
Roberts et al.

Examiner
Clark F. Dexter

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3724



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on _____
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 and 26-39 is/are pending in the application.
- 4a) Of the above, claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claims 1 and 26-39 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- a) ☐ All b) ☐ Some* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

*See the attached detailed Office action for a list of the certified copies not received.

- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

- 15) ☐ Notice of References Cited (PTO-892) 18) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 19) ☐ Notice of Informal Patent Application (PTO-152)
- 17) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____ 20) ☐ Other: _____

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DETAILED ACTION

Election/Restriction

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
 - I. Claim 1, drawn to a dispenser with a specific dispensing mechanism, classified in class 242.
 - II. Claims 26, 27, 29 and 31, drawn to a dispenser with specific inner housing structure, classified in class 225, subclass 32.
 - III. Claims 26, 28 and 30, drawn to a dispenser with a specific housing configuration, classified in class 225, subclass 39.
 - IV. Claims 26 and 32, drawn to a dispenser with dispensing monitoring structure, classified in class 242.
 - V. Claims 33-36, drawn to a method of dispensing tickets with a specific electronic control structure, classified in class 242.
 - VI. Claims 33, 35, 37 and 38, drawn to a method of dispensing tickets from a specific housing configuration, classified in class 225, subclass 1.
 - VII. Claims 33 and 39, drawn to a method of utilizing a ticket dispenser, classified in class 312.
2. Claims 26-32 have been restricted such that the patentability of the invention is presumed to lie in the details of the particular group (e.g. the inner housing configuration of Group I). It is

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noted that if claim 26 as originally filed is part of an elected group and determined to be patentable, rejoinder of claims 26-32 will be considered. The same applies to independent claim 33 with respect to the claims dependent therefrom. It is further noted that claim 26 is listed as part of groups II-IV but is not considered to be part of any of these groups. Rather, claim 26 recites subject matter that is common to these groups and has been shown as part of each group for clarity (i.e., so that it is clear which claims are part of which group). Further, because claim 26 includes subject matter which is common to these groups, it is not considered to be independent or distinct from any of groups II-IV and thus will be examined with the elected group upon election of one of these groups. Again, the same applies to claim 33 with respect to groups V and VI.

3. The inventions are distinct, each from the other because of the following reasons:

Apparatus Groups (I-IV) vs Method Groups (V-VII)

4. Inventions V-VII are related to inventions I-IV as process and apparatus for its practice. The inventions are distinct if it can be shown that either: (1) the process as claimed can be practiced by another materially different apparatus or by hand, or (2) the apparatus as claimed can be used to practice another and materially different process. (MPEP § 806.05(e)). In this case, the apparatus as claimed can be used to practice another and materially different process; for example, for dispensing another type of work piece.

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Apparatus Groups I-IV

5. Inventions of groups I and groups II-IV are separate inventions (i.e., subcombinations).

They are distinct because the invention of group I does not require the store checkout counter of groups II-IV for patentability as evidenced by the omission thereof from group I, and the inventions of groups II-IV do not require the powered drive module of group I for patentability as evidenced by the omission thereof from groups II-IV.

6. Inventions of groups II and III are separate inventions (i.e., subcombinations). They are distinct because the invention of group II does not require the specific details of the housing configuration of group III for patentability as evidenced by the omission thereof from group II, and the invention of group III does not require the specific details of the inner housing structure (e.g., the storing and holding structure) of group II for patentability as evidenced by the omission thereof from group III.

7. Inventions of groups II and IV are separate inventions (i.e., subcombinations). They are distinct because the invention of group II does not require the electronic means of group IV for patentability as evidenced by the omission thereof from group II, and the invention of group IV does not require the specific details of the inner housing structure (e.g., the storing and holding structure) of group II for patentability as evidenced by the omission thereof from group IV.

8. Inventions of groups III and IV are separate inventions (i.e., subcombinations). They are distinct because the invention of group III does not require the electronic means of group IV for patentability as evidenced by the omission thereof from group III, and the invention of group IV

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does not require the specific details of the housing configuration of group III for patentability as evidenced by the omission thereof from group IV.

Method Groups V-VII

9. Inventions of groups V and VI are separate inventions. They are distinct because the invention of group V does not require the specific details of the method of dispensing tickets from a specific dispenser configuration as set forth in group VI for patentability as evidenced by the omission thereof from group V, and the invention of group VI does not require the specific details of dispensing tickets using an electronic means as set forth in group V for patentability as evidenced by the omission thereof from group VI.

10. Inventions of groups V and VII are separate inventions. They are distinct because the invention of group V does not require the specific details of the method of utilizing a ticket dispenser (e.g., placing and filling out a check) as set forth in group VII for patentability as evidenced by the omission thereof from group V, and the invention of group VII does not require the specific details of dispensing tickets using an electronic means as set forth in group V for patentability as evidenced by the omission thereof from group VII.

11. Inventions of groups VI and VII are separate inventions. They are distinct because the invention of group VI does not require the specific details of the method of utilizing a ticket dispenser (e.g., placing and filling out a check) as set forth in group VII for patentability as evidenced by the omission thereof from group VI, and the invention of group VII does not require

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the specific details of the method of dispensing tickets from a specific dispenser configuration as set forth in group VI for patentability as evidenced by the omission thereof from group VII.

12. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, and have acquired a separate status in the art because of their recognized divergent subject matter, restriction for examination purposes as indicated is proper.

13. Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

14. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a petition under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(I).

15. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Clark Dexter whose telephone number is (703) 308-1404.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Rinaldi Rada, can be reached at (703)308-2187.

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Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703)308-1148. The fax numbers for this group are: formal papers - (703)305-3579; informal/draft papers - (703)305-9835.



Clark F. Dexter
Primary Examiner
Art Unit 3724

cfd

August 8, 2001